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9 UNITED STATES DISTRICT COURT

10 DISTRICT OF ARIZONA

11 In Re Bard IVC Filters Products
Liability Litigation

No. MD-15-02641-PHX-DGC

**SECOND NOTICE OF SUPPLEMENTAL
AUTHORITY IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT REGARDING
PREEMPTION**

(Assigned to the Honorable David G.
Campbell)

(Oral Argument Requested)

18
19 Plaintiffs file this Notice of Supplemental Authority in support of their Response in
20 Opposition to Defendants' Motion for Summary Judgment Regarding Preemption
21 ("Preemption Opposition") [Doc. 7369] to Defendant C.R. Bard, Inc. and Bard Peripheral
22 Vascular Inc.'s ("Bard's") Motion for Summary Judgment Regarding Federal Preemption
23 ("Motion") [Doc. 5396]. Plaintiff offers the following supplemental authority:

24 *Eghnayem et al. v. Boston Scientific Corp.* No. 16-11818,
25 D.C. Docket Nos. 1:14-cv-24061-JRG and 1:14-cv-24064-
26 JRG (11th Cir. Oct. 19, 2017) (holding that District Court did
27 not abuse its discretion when it "concluded that the 510(k)
28 review process is not relevant to a product's safety" and
excluded defendants' 510(k) clearance evidence).

1 Plaintiffs hereby submit Exhibit A as supplemental authority to their response in
2 opposition to Bard's similarly-based Motion for Summary Judgment Related to Federal
3 Preemption regarding its IVC filters in the above captioned matter. The above cited
4 authority--specifically pages 22-23--is relevant to Plaintiffs' response to Bard's Motion
5 arguments claiming that FDA's review evaluates and determines the safety and efficacy of
6 medical devices cleared via the 510(k) process in the post-Safe Medical Devices Act
7 (SMDA) of 1990 period.

8 RESPECTFULLY SUBMITTED this 24th day of October, 2017.

9 GALLAGHER & KENNEDY, P.A.

10 By: /s/ Mark S. O'Connor

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20 **CERTIFICATE OF SERVICE**

21 I hereby certify that on this 24th day of October, 2017, I electronically transmitted
22 the attached document to the Clerk's Office using the CM/ECF System for filing and
23 transmittal of a Notice of Electronic Filing.

24 /s/ Gay Mennuti

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